



MONTANA STATE HOSPITAL POLICY AND PROCEDURE

ALLEGATION OF RAPE OR SEXUAL ASSAULT

Effective Date: May 2, 2005

Policy #: ER-01

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- I. PURPOSE:** The purpose of this policy is to outline policy and procedures for reporting and responding to allegations of rape or sexual assault.
- II. POLICY:**
 - A. Whenever an allegation of rape is received, every effort must be made to provide proper and immediate notification of law enforcement, to protect physical evidence, maintain the patient's privacy and dignity, and to provide emotional support for the alleged victim.
 - B. Montana State Hospital will immediately provide for the safety and welfare of the alleged victim, suspect, patient or staff; protecting physical evidence and ensuring timely notification of and cooperation with law enforcement authorities.
- III. DEFINITIONS:** None
- IV. RESPONSIBILITIES:**
 - A. All employees are responsible for immediately notifying their supervisor of any allegation of rape or sexual assault. All employees must cooperate with investigative procedures conducted by law enforcement or MSH investigators.
 - B. Supervisors are responsible for notifying the Nursing House Supervisor and the Team Leader on the patient's unit. Supervisors are also responsible for protecting all physical evidence.
 - C. The Nurse Supervisor or designee is responsible for notifying the unit physician or physician on call, Hospital Administrator, Director of Nursing, Medical Director or their designee. Ensure the patient's physical and emotional needs are met.
 - D. The Medical Physician will examine the patient and alleged perpetrator. A "rape kit" is available at Med Clinic.
 - E. The Psychiatrist or on-call psychiatrist is responsible to ensure the treatment plan addresses a process for meeting emotional needs as appropriate.

V. PROCEDURE:

A. Reporting:

1. When an allegation of rape is received, the Nurse Supervisor must be notified immediately. The Nurse Supervisor will ensure the physician/physician on call, Medical Director and Hospital Administrator are notified as soon as possible.

Allegations of Rape must be immediately reported to the nurse supervisor, regardless of time of day or day of week. Failure to do so is considered a serious violation of Hospital policy and will be subject to disciplinary action.

2. The Nurse Supervisor must notify law enforcement. Hospital policy #ER-04 "Response and Notification of Authorities In The Event Of A Serious Emergency" outlines the process for notifying Anaconda-Deer Lodge County law enforcement.
3. The Hospital Administrator or designee will notify the Division Administrator.

B. Treatment and care of the victim:

1. All staff members will provide emotional support and reassurance, making every effort to protect the patient's privacy.
2. Prior to the victim being examined by the physician;
 - a. The victim should not wash any part of their body or hair.
 - b. The victim should not eat, drink, or rinse their mouth.
 - c. The victim should not change clothes. If clothes have already been changed, place the clothes in a PAPER bag, seal with evidence tape, sign, date and refrigerate until they are handed over to law enforcement.
 - d. The victim should not defecate or urinate before the examination. If urination is necessary, accompany the victim to the bathroom, have the patient void in a urine container and seal the container in a plastic bag with evidence tape, sign, date and refrigerate until it is handed over to law enforcement. Victim should not wipe before or after urination.

3. The physician will determine if a complete rape kit examination or a limited physical exam is necessary, depending on the history of the victim or witnesses if any. Document accordingly in the patient's chart.
 - a. The evaluation and examination of the victim will be conducted only in the presence of a chaperone of the same gender as the victim and preferably, if time permits, after the arrival of the investigating law enforcement officer at Montana State Hospital.

C. Protection of physical evidence:

1. Evidence must be protected from accidental contamination until it is turned over to law enforcement officers.
2. The number of persons who handle the evidence must be kept to a minimum. A "chain of custody" must be recorded for any evidence obtained.
3. Evidence must be carefully handled to avoid destroying any clues or fingerprints. Before touching potential evidence protect the area to be handled with cloth or tissue.
4. Removal of evidence or the victim from the crime scene must be documented in detail, to include: date, time, place evidence found, circumstances of recovery, description of item recovered, name(s) of person(s) removing the evidence and to whom it was given.
5. Place evidence in a suitable container such as an envelope, plastic sack, or box. NOTE: Blood stained items should not be placed in a plastic bag.
6. Maintain evidence under secure conditions until given to law enforcement.
7. Obtain a receipt that identifies all evidence turned over to law enforcement. The receipt must be signed by the person releasing the evidence, the person receiving the evidence and one witness to the transaction.

D. Treatment and care of suspect perpetrator:

1. If the alleged perpetrator is a patient, the patient must have a physical examination and a "suspect" rape kit examination conducted as deemed necessary by the physician. Potential evidence must be handled as described above. The suspect should not cleanse self or change clothes.

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2. If the suspect is not a patient, law enforcement must be notified immediately.
 3. The suspect should not defecate or urinate before the examination. If urination is necessary, accompany the suspect to the bathroom, have the suspect void in a urine container and seal the container in a plastic bag with evidence tape, sign, date and refrigerate until it is handed over to law enforcement. Suspect should not wipe before or after urination.
 4. The decision to restrict the alleged perpetrator to the unit, place the patient in seclusion, transfer the patient to a more secure setting, etc. will be made by the on-call physician/nurse practitioner after they review available information including a review of the patient's history, potential witnesses, etc.
 5. Montana State Hospital can conduct an internal investigation of the alleged incident in conjunction to any investigation conducted by Anaconda-Deer Lodge County law enforcement.
- E. Employees must provide complete, accurate documentation in the patient chart.
- F. Release of patient information:
1. The medical record of a victim may be released to the authorities. The medical record of a patient who is a suspect in a criminal investigation may not be released to, nor reviewed by, any investigator without an appropriate order issued by the district court (normally an investigative subpoena). General details about the suspect such as name, date of birth, community of residence, type of commitment, may be released.
 2. Hospital staff members will cooperate with any investigation conducted by investigating law enforcement officers. Employees will provide written statements to law enforcement if requested.
 3. Notification of the victim's family or legal guardian will be made as soon as possible following initial intervention by the person designated by the Hospital Administrator or designee. Notification must be made with compassion, caring, and understanding of the feelings of the recipient.
 4. Procedural questions should be referred to the Hospital Administrator.
- E. Follow-up Care:
1. If rape is verified, the physician will order lab testing as outlined below.

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- ## **XII. ATTACHMENTS: A. Release of Information – Alleged Rape**

_____/_____/_____
Thomas Gray, MD Date
Medical Director

MONTANA STATE HOSPITAL
RELEASE OF INFORMATION – ALLEGED RAPE

DATE: _____

HOSPITAL NO.: _____

NAME: _____

CONSENT:

I give my consent for the taking of the history, the physical examination, the collection of evidence, photography, the release of information to the authorities, and for any treatment rendered concerning my recent sexual assault.

(SIGNATURE OF WITNESS)_____
(SIGNATURE OF PATIENT)_____
(SIGNATURE OF WITNESS)_____
(SIGNATURE OF RESPONSIBLE PARTY)

WHEN PATIENT IS INCOMPETENT TO
SIGN FOR SELF, TELEPHONE/MONITOR
PERMISSION

LIST OF MEDICATIONS: _____

ALLERGIES: _____

GYNECOLOGICAL HISTORY: Last menstrual period, if known _____

Contraceptive, if used _____

Pre-existing pregnancy: YES _____ NO _____